

COPY

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

FILED
U.S. DISTRICT COURT
NORTHERN DIST. OF TX
FT. WORTH DIVISION

2014 APR -7 PM 4:03 55

**PAL-CON, LTD. and VALLEY FORGE
INSURANCE COMPANY,**

Plaintiff and Intervenor,

v.

**FRIEND'S EXPRESS, LLC,
JEFFERY D. BRANTLEY d/b/a
BRANTLEY TRANSPORTATION, and
BERT A. WHEELER d/b/a
ANNE'S PILOT CAR SERVICES,**

Defendants.

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

FILED

APR 15 2014

CLERK, U.S. DISTRICT COURT

By _____

Deputy _____

CLERK OF COURT

Civil Action No.
4:12-CV-721-A

~~PARTIES' REVISED JOINT EXHIBIT INDEX~~

Pursuant to the Court Order dated April 2, 2014 (Dkt. # 55), the Parties hereby submit

~~the following revised joint exhibit list.~~

~~Plaintiffs Pal-Con, Ltd. and Valley Forge Insurance Company proposed removing~~

~~Exhibits 2, 7-19, 21-25, 32-34, 39-45, 67-91, 100, 105-110, 115, 118 and 123. Defendant~~

~~objected to their removal.~~

(2014)

<u>Exh</u>	<u>Description</u>	<u>Objections</u>	<u>Offered</u>	<u>Admitted</u>
1	Work Orders and Supporting Details (PAL-CON 000415-29; 435-87; 748-851; 853-88; 900-24; 952-1275)	<u>Defendant's Objections:</u> Relevance FRE 401; FRE 403	4/14	4/14
2	Fax from Anne's Pilot Car Service (BRANT 0149)	<u>Plaintiffs' Objections:</u> FRE 106, 802 and 901		
3	Invoice from Anne's Pilot Car Service (BRANT 0072-73)		4/14	4/14
4	Anne's Pilot Car Service Ticket (BRANT 0071; WHEELER 000001)		11	11
5	Damaged Regenerator & Replacement Expenses (PAL-CON 000216-42)	<u>Defendant's Objections:</u>	11	11

<u>Exh</u>	<u>Description</u>	<u>Objections</u>	<u>Offered</u>	<u>Admitted</u>
		Relevance FRE 401 (consequential damages); FRE 403		
6	Damaged Regenerator & Replacement Expenses (Pal-Con 1393-1418 dated March 5, 2014)	<u>Defendant's Objections:</u> Relevance FRE 401, (consequential damages); FRE 403	7/14	4/14
7	Friends Express Uship Profile (Pal Con 008-13; FRIENDS 0001-2)	<u>Plaintiffs' Objections:</u> FRE 401, 402, 403 and 901		
8	Uship terms and conditions (Pal-Con 0010-13; FRIENDS 0006-9)	<u>Plaintiffs' Objections:</u> FRE 401, 402, 403 and 901		
9	Uship SAFER Information (FRIENDS 0003-5)	<u>Plaintiffs' Objections:</u> FRE 401		
10	Friends Express LLC Customer Credit Application (Brant 0030 & Pal Con 0014; 0079)	<u>Plaintiffs' Objections:</u> FRE 402, 901		
11	Bill of lading (Left Side Module) at pickup; Brant 49; FRIENDS 272-273; Exhibit 32 to the deposition of James Randall Thompson	<u>Defendant's Objections:</u> Relevance FRE 401; FRE 403 <u>Plaintiffs' Objections:</u> FRE 403		
12	Bill of Lading for Left Side Module at delivery Friends 0033; Brantley Depo Exhibit 28; Maples Exhibit 28; Thompson Depo Exhibit 32; Brantley 0050			
13	Bill of Lading 09/12/11 piping and flange for Spectra trip 2938 Pal Con 00142	<u>Defendant's Objections:</u> FRE 403; FRE 403 <u>Plaintiffs' Objections:</u> FRE 401		
14	Bill of Lading for Right Side Module (Friends 287)	<u>Plaintiffs' Objections:</u> FRE 401, 402, and 403		
15	Brantley Invoice (Brant 95)	<u>Plaintiffs' Objections:</u> FRE 401		

<u>Exh</u>	<u>Description</u>	<u>Objections</u>	<u>Offered</u>	<u>Admitted</u>
16	BOL for Left Module to Lilly, PA 10/04/10 Pal-Con 1295	<u>Defendant's Objections:</u> Relevance FRE 401; 403 <u>Plaintiffs' Objections:</u> FRE 401, 402, and 403		
17	BOL for Right Module to Lilly, PA 10/04/10 Pal Con 1294	<u>Defendant's Objections:</u> Relevance FRE 401; 403 <u>Plaintiffs' Objections:</u> FRE 401, 402, and 403		
18	BOL for ducts and other parts to Lilly, PA Click Farms 09/28/10 Pal Con 1299	<u>Defendant's Objections:</u> Relevance FRE 401; 403 <u>Plaintiffs' Objections:</u> FRE 401, 402, and 403		
19	BOL for trailer from Lilly, PA to Stephenville by Click Farms 10/01/10 Pal Con 1298	<u>Defendant's Objections:</u> Relevance FRE 401; 403 <u>Plaintiffs' Objections:</u> FRE 401		
20	Invoices (Pal-Con 0488-625; 650-57; 660-78; 713-47; 852; 890-96; 898-99; 1284; Pal-Con 283-286; VF 00299 & VF 00328; Pal Con 1292; Pal Con 1296; Pal Con 143	<u>Defendant's Objections:</u> Relevance FRE 401; FRE 403	4/14	4/14
21	Friends Invoice for Job #2951 the Left Side Module (Pal Con 0143; FRIENDS 0039-40)			
22	Pal Con Purchase Order for Friends Transport units from Stephenville, TX to Lilly, PA 2 @ \$9,900 ea = \$19,800 (VF 00300 & VF 00329)			
23	Purchase Orders (Pal Con 147; Pal Con 150; FRIENDS 0038; Pal Con 1293; Pal Con 1297; VF	<u>Defendant's Objections:</u>	4/14	4/14

<u>Exh</u>	<u>Description</u>	<u>Objections</u>	<u>Offered</u>	<u>Admitted</u>
	330-336; VF 710-6); VF 330 & 329	Relevance FRE 401; FRE 403 Plaintiffs' Objections: Duplicates; FRE 401		
24	Crystal Baca Emails (VF 308; VF 413-14; VF 645-646; Pal-Con 259)	Plaintiffs' Objections: FRE 403		
25	Jacob Maples Driver's License and Medical Examiner's Certificate, (BRANT 0006)	Defendant's Objections: Relevance FRE 401 Plaintiffs' Objections: FRE 403		
26	Ohio Permit (BRANT 60-61)		4/14	4/14
27	Photographs of Eastbound I-70 at mile 91 (Exhibit 7 to the deposition of Bert Wheeler)		11	11
28	Aerial of I-70 and I-270 mixmaster (Wheeler Depo Ex. 8)		11	11
29	Map of Permitted Route (Exhibit 10 to the deposition of Bert Wheeler)		11	11
30	Photo of I-270 North and Ohio 317 bridge (Wheeler Depo Ex. 11)		11	11
31	Photographs dated September 23, 2011 (Exhibit 12 to the deposition of Bert Wheeler; Hufford Depo Ex. 1)		11	11
32	Friends' Broker Documents (Brant 31-41; Brant 232-34; Brant 239)	Plaintiffs' Objections: FRE 401, 403, 802,		
33	Carrier Load Rate Confirmation (Brant 42-47)			
34	The Internet Truckstop load transportation request (Brantley Depo Ex. 25)			
35	Map with bridge location circled (Hufford Depo Ex. 3)		4/14	4/14
36	Photographs from Crawford Report (BRANT 0097-108)		11	11
37	Photographs of damaged unit (PAL-CON 000288-307)		11	11
38	Summary of Visual Inspection of damaged Left-Side Module (BRANT 0238-39)	Defendant's Objections: FRE 801, 802 expert		

<u>Exh</u>	<u>Description</u>	<u>Objections</u>	<u>Offered</u>	<u>Admitted</u>
		testimony required		
39	12/20/11 Notice letter from VFIC to Brantley (BRANT 0152-96)	<u>Defendant's Objections:</u> Relevance FRE 401, FRE 403 <u>Plaintiffs' Objections:</u> FRE 402, 403		
40	1/26/12 Notice letter from Pal-Con to Brantley (BRANT 0249-51)	<u>Defendant's Objections:</u> Relevance FRE 401; FRE 403 <u>Plaintiffs' Objections:</u> FRE 402, 403		
41	1/26/12 Notice letter from Pal-Con to Friend's Express (BRANT 0252-54; FRIENDS 0111-13)	<u>Defendant's Objections:</u> Relevance FRE 401; FRE 403 <u>Plaintiffs' Objections:</u> FRE 402, 403		
42	10/3/11 Recap of Events from Crystal Baca (PAL-CON 000259) (Thompson Depo Ex. 39)	<u>Defendant's Objections:</u> Relevance FRE 401, 403; FRE 801,802		
43	Ty Moore's Account of Incident (PAL-CON 000256)	<u>Defendant's Objections:</u> Relevance FRE 401; FRE 403; FRE 801, 802		
44	10/4/11 Account of Events from Chris (PAL-CON 000257)	<u>Defendant's Objections:</u> FRE 801, 802, FRE 403		
45	10/3/11 Account of Events from Tanner Thompson (PAL-CON 000258)	<u>Defendant's Objections:</u> FRE 80, 802; FRE 403 FRE 401		
46	Correspondence from Spectra Energy (PAL-CON 000356-57)	<u>Defendant's</u> <i>hearing</i>	4/14	7/14

<u>Exh</u>	<u>Description</u>	<u>Objections</u>	<u>Offered</u>	<u>Admitted</u>
		Objections: FRE 401; FRE 403	###	
47	Correspondence between Randy Thompson and Troy Connor (PAL-CON 000358-61)	Defendant's Objections: FRE 401; FRE 403 <i>Admitted</i>	4/14	4/14
48	Correspondence with Spectra Energy (PAL-CON 001276-79)	Defendant's Objections: FRE 401; 403; FRE 801, 802 <i>Admitted</i>	11	11
49	Supplemental Activation Order with Spectra Energy (PAL-CON 001280-81)	Defendant's Objections: Relevance FRE 401, ; FRE 403	11	11
50	Summary of Pal-Con's Damages	Defendant's Objections: Relevance FRE 401,; FRE 403	11	11
51	Arnie's Conditional Computation of Allowable Pal-Con Damages (Arnie Depo Ex. 3)	Defendant's Objections: Relevance FRE 401	11	11
52	Original Estimate of Additional Costs for Refurb and Installation (PAL-CON 000202-05)	Defendant's Objections: Relevance FRE 401,; FRE 403	11	11
53	Spreadsheet of Miscellaneous Expenses and Supporting Receipts (PAL-CON 000679-710)	Defendant's Objections: Relevance FRE 401 (consequential damages),; FRE 403	11	11
54	Spreadsheet of Extra Garrett Materials (PAL-CON 000711-12)	Defendant's Objections: Relevance FRE 401, (consequential); FRE 403	11	11
55				
56	Spreadsheet of Extra Pal-Tex Materials (PAL-CON 000889)	Defendant's Objections:	4/14	4/14

<u>Exh</u>	<u>Description</u>	<u>Objections</u>	<u>Offered</u>	<u>Admitted</u>
		Relevance FRE 401,; FRE 403		
57	Spreadsheet of Extra Install Materials (PAL-CON 000897)	<u>Defendant's</u> <u>Objections:</u> Relevance FRE 401,; FRE 403	4/14	4/14
58	Spreadsheet of equipment hours (PAL-CON 000925)	<u>Defendant's</u> <u>Objections:</u> Relevance FRE 401,; FRE 403	11	11
59	Spreadsheet of Service Purchase Orders as of 7/16/12 (PAL-CON 000658-59)	<u>Defendant's</u> <u>Objections:</u> Relevance FRE 401,; FRE 403	11	11
60	Mobilization Crew Hour Logs (PAL-CON 000626-49; 000926-27; 000932-33; 000935; 000938-39; 000942-43; 000945)	<u>Defendant's</u> <u>Objections:</u> Relevance FRE 401; FRE 403	11	11
61	Equipment Logs (PAL-CON 000928-31; 000934; 000936-37; 000940-41; 000944; 000946)	<u>Defendant's</u> <u>Objections:</u> Relevance FRE 401; FRE 403	11	11
62	Mobilization Expense Reports (PAL-CON 000947-51)	<u>Defendant's</u> <u>Objections:</u> Relevance FRE 401 (consequential); FRE 403	11	11
63	Southwest Transport Logistics Inc.'s Invoice for Return of Damaged Unit (PAL-CON 000278)	<u>Defendant's</u> <u>Objections:</u> Relevance FRE 401; FRE 403	11	11
64	C.V. of Randy Sorenson			
65	Report of Randy Sorenson	<u>Defendant's</u> <u>Objections:</u> FRE 403; FRE 801, 802		
66	2/28/14 Interoffice Memorandum from Randy Thompson (PAL-CON 001390-92)	<u>Defendant's</u> <u>Objections:</u>		

<u>Exh</u>	<u>Description</u>	<u>Objections</u>	<u>Offered</u>	<u>Admitted</u>
		Relevance FRE 401; FRE 403		
67	Interstate Commerce Commission Permit for Jeffrey D. Brantley d/b/a Brantley Transportation (Brantley 0007-0008)	<u>Plaintiffs' Objections:</u> FRE 401		
68	ODS North America Invoice (Brant 0029)	<u>Plaintiffs' Objections:</u> FRE 401		
69	Carrier Profile filled out by Brantley (Brant 0039 & Brant 0231 & Brant 0440)	<u>Plaintiffs' Objections:</u> FRE 401, 403 and 411		
70	US DOT License Friends Express (Brant 0040 & Brant 0441)	<u>Plaintiffs' Objections:</u> FRE 401 and 901		
71	W-9 Form (Brant 0041)	<u>Plaintiffs' Objections:</u> FRE 401		
72	Certificate of Liability Insurance for Brantley (Brant 0048)	<u>Plaintiffs' Objections:</u> FRE 401, 403 and 411		
73	Oct 11, 2011 claim letter from Pal Con to Brantley (Brant 0116-0116)	<u>Plaintiffs' Objections:</u> FRE 106, 1002 and 1003		
74	Oct 11, 2011 claim letter from Pal Con to Friends (VF 00643-644)	<u>Defendant's Objections:</u> FRE 403, 401, 801; 802; 901, 902 <u>Plaintiffs' Objections:</u> FRE 401 and 403		
75	Standard Form for Presentation of Loss and Damage Claims signed by James R. Thompson (Brant 0118-0119 & VF 0029)	<u>Plaintiffs' Objections:</u> FRE 106		
76	W & A Regenerator Loss Estimate (Brant 0192)	<u>Defendant's Objections:</u> FRE 401 403 <u>Plaintiffs' Objections:</u> FRE 106, 702, 703, 802		
77	Sworn Statement in Proof of Loss (Brant 0193 & Pal Con 00030 & VF 00226 & VF 00349 & VF 00354)	<u>Defendant's Objections:</u> FRE 401 403 <u>Plaintiffs' Objections:</u>		

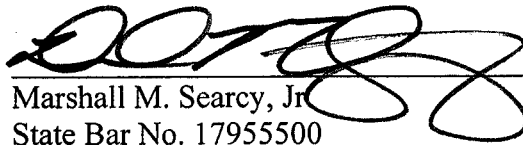
<u>Exh</u>	<u>Description</u>	<u>Objections</u>	<u>Offered</u>	<u>Admitted</u>
		FRE 401, 403 and 411		
78	Subrogation Receipt (Brant 0194 & VF 00227 & VF 00350-351 & VF 00355-356)	<u>Defendant's Objections:</u> FRE 401 403 <u>Plaintiffs' Objections:</u> FRE 401, 403 and 411		
79	Nov 9, 2011 letter from Pal Con to CNA Ins re: will replace unit (Brant 0212)	<u>Defendant's Objections:</u> FRE 401, 403 <u>Plaintiffs' Objections:</u> FRE 401		
80	Standard Form for Presentation of Loss and Damage Claims (Brant 0267 & Pal Con 00025 & VF 00358-360)	<u>Defendant's Objections:</u> FRE 401 403 <u>Plaintiffs' Objections:</u> FRE 106		
81	Corrected Standard Form for Presentation of Loss and Damage Claims (VF 00361-364)	<u>Defendant's Objections:</u> FRE 401 403 <u>Plaintiffs' Objections:</u> FRE 401 and 402		
82	Pal Con's Spectra Energy - Lilly PA Breakdown of Additional Costs Associated with Regenerator Damaged in Transport (Brant 0269-0271 & Pal Con 0026 & VF 00230)	<u>Defendant's Objections:</u> FRE 401 403 <u>Plaintiffs' Objections:</u> FRE 106 and 403		
83	W-9 signed by Jeffrey D. Brantley 04/05/10 (Brant 0430)	<u>Plaintiffs' Objections:</u> FRE 401		
84	Carrier References for Brantley Transportation (Brent 0431)	<u>Plaintiffs' Objections:</u> FRE 401 and 802		
85	Certificate of Liability for Jeff Brantley "For Info Only" (Brant 0432)	<u>Plaintiffs' Objections:</u> FRE 401, 403 and 411		
86	Photograph of Brantley truck (Brant 0468)			
87	E-mail from Randy Thompson to Greg Hunter regarding e-mails between Pal Con and Friends (VF	<u>Plaintiffs' Objections:</u> FRE 401 and 802		

<u>Exh</u>	<u>Description</u>	<u>Objections</u>	<u>Offered</u>	<u>Admitted</u>
	00340-342)			
88	Statement of Loss (VF 00223)	<u>Defendant's Objections:</u> FRE 401; 403 <u>Plaintiffs' Objections:</u> FRE 403, 802, 901 and 1006		
89	Pal Con's itemization of damages (VF 00472-496)	<u>Defendant's Objections:</u> FRE 401; 403 <u>Plaintiffs' Objections:</u> FRE 106		
90	Pal Con letter to CNA regarding efforts best spent manufacturing a new unit (VF 00498)	<u>Plaintiffs' Objections:</u> FRE 401 and 403		
91	E-mail string between Greg Hunter and Heather Melton regarding payment of \$800,000 check (VF 00575)	<u>Plaintiffs' Objections:</u> FRE 401, 403, 701, 702 and 901		
92	E-mail from Kellie Herrmann to Scott Armstrong. Werlinger, re: attachments Spectra Energy purchase order, activation order (VF 00683-684), Spectra changing dates of the project, proof of sale of two used cores, letter from Thompson, used flange assemblies selling for 60% of original value with attachments (VF 00578-604)	<u>Defendant's Objections:</u> FRE 401; 403; 901; 902; 801; 802 <u>Plaintiffs' Objections:</u> FRE 401 and 403		
93	Activation Order as Supplemented 09/29/11 (VF 00706-709)	<u>Defendant's Objections:</u> FRE 401; 403; 901; 902	4/14	4/14
94	E-mail from Kellie Herrmann to Scott Armstrong re: copy of bid contract with Spectra Energy re: regenerator and attachment (VF 00605-616)			
95	Document showing expenses for trip to site (VF 00647-652)	<u>Defendant's Objections:</u> FRE 401; 403	4/14	4/14
96	Pal Con Pal-Tex Regenerator Installation Bid 01/20/11 (VF 00685-694)	<u>Plaintiffs' Objections:</u> FRE 401 and 403		
97	Bid v. Estimated Cost v. Actual Cost analysis for 01/20/11 (VF 00695)	<u>Plaintiffs' Objections:</u> FRE 401 and 403		

<u>Exh</u>	<u>Description</u>	<u>Objections</u>	<u>Offered</u>	<u>Admitted</u>
98	Pal Con bid for regenerator replacement 09/14/10 (VF 00697-705)		4/14	4/14
99	Bill of Sale Equipment signed by Randy Thompson re: sale of 3 refurbished Garrett Regenerator Cores @ \$60,000 each (VF 00719)	<u>Plaintiffs' Objections:</u> FRE 401		
100	CNA check to Pal Con for \$800,000 (VF 00721)	<u>Plaintiffs' Objections:</u> FRE 401, 403 and 901		
101	V. Paul Herbert's C.V. and Report dated July 11, 2013	<u>Plaintiffs' Objections:</u> FRE 602, 702, 703 and 802		
102	Dennis Arnie's C.V. and Report dated July 12, 2013	<u>Plaintiffs' Objections:</u> FRE 602, 702, 703 and 802		
103	Insufficient Support for Purchase Orders, Tab 19 to Dennis Arnie's report (Pal-Con_000241, Pal-Con_000671)	<u>Plaintiffs' Objections:</u> FRE 106, 602, 702, 703 and 802		
104	Estimated Salvage Value of Original Left-Side Module, Tab 22 to Dennis Arnie's report (Pal-Con_000130)	<u>Plaintiffs' Objections:</u> FRE 106, 602, 702, 703 and 802		
105	Email thread from Crystal Baca to Christine Friend dated August 25, 2011, Exhibit 33 to the deposition of James Randall Thompson (Pal-Con_000151-000152)	<u>Plaintiffs' Objections:</u> FRE 401		
106	Email thread from Christine Friend to Crystal Baca dated August 26, 2011, Exhibit 33 to the deposition of James Randall Thompson (Pal-Con_000153-000156)	<u>Plaintiffs' Objections:</u> FRE 401		
107	Email thread from Christine Friend to Crystal Baca dated August 29, 2011, Exhibit 33 to the deposition of James Randall Thompson (Pal-Con_000157-000162)	<u>Plaintiffs' Objections:</u> FRE 401		
108	Letter from Randy Thompson to Brantley Transportation dated October 11, 2011, Exhibit 41 to the deposition of James Randall Thompson (Pal-Con_000023-000024)	<u>Defendant's Objections:</u> FRE 403		
109	Equipment Operating Agreement, Exhibit 20 to the deposition of Jeff Brantley (BRANT 0016-0027)	<u>Plaintiffs' Objections:</u> FRE 401		
110	Jacob Maples Application for Employment, Exhibit 27 to the deposition of Jacob Maples (BRANT 0009-0012)	<u>Defendant's Objections:</u> Relevance FRE 401, 403		

<u>Exh</u>	<u>Description</u>	<u>Objections</u>	<u>Offered</u>	<u>Admitted</u>
111	Bert Wheeler's licenses and certificates, Exhibit 1 to the deposition of Bert Wheeler (Wheeler 000002)			
112	Map of the highways around Columbus, Ohio (Exhibit 5 to the deposition of Bert Wheeler)		4/14	4/14
113	Map of a portion of I-270, Exhibit 6 to the deposition of Bert Wheeler		11	11
114	Certified Copy of the State of Ohio Operational Guide for Vehicles Operating with an Oversize/Overweight Special Hauling Permit (WHEELER 59-175)	Plaintiffs' Objections: FRE 401 and 901; Defendant's Objections: FRCP 34 and 37		
115	Photograph of Brantley Transportation Truck, Exhibit 15 to the deposition of Bert Wheeler			
116	Aerial photograph, Exhibit 18 to the deposition of Bert Wheeler		4/14	4/14
117	Aerial photograph, Exhibit 19 to the deposition of Bert Wheeler		11	11
118	Freight Details, Exhibit 25 to the deposition of Tonya Brantley			
119	Pilot Car Escort Best Practices Guidelines, Exhibit 1 to the deposition of Randy Sorenson	Plaintiffs' Objections: FRE 702, 703 and 802		
123	Gahanna Police Department Incident Report (VE00657-00659)	Plaintiffs' Objections: FRE 401, 402, 403, and 801		

Respectfully submitted,



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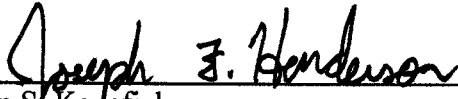


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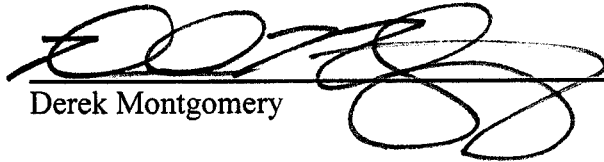
ATTORNEYS FOR DEFENDANT

BERT A. WHEELER D/B/A

ANNE'S PILOT CAR SERVICE

CERTIFICATE OF SERVICE

Pursuant to IN RE: Standing Order Concerning Paper Filing In Cases Assigned to U.S. District Judge John McBryde, I hereby certify that a true and correct copy of the foregoing document has been forwarded in paper form to the clerk of court for the U.S. District Court, Northern District of Texas. I hereby certify that I have served all known counsel of record in this cause in accordance with the Federal Rule of Civil Procedure 5(b)(2) on this 7th day of April, 2014.


Derek Montgomery